

STATE OF IOWA
PROPERTY ASSESSMENT APPEAL BOARD

Sherwin Koch,
Petitioner-Appellants,

v.

Johnson County Board of Review,
Respondent-Appellee.

ORDER

Docket No. 09-52-0126
Parcel No. 0325226004

On November, 24, 2009, the above-captioned appeal came on for consideration before the Iowa Property Assessment Appeal Board. The appeal was conducted under Iowa Code section 441.37A(2)(a-b) and Iowa Administrative Code rules 701-71.21(1) et al. Petitioner-Appellant, Sherwin Koch, requested that his appeal be considered without a hearing and submitted evidence in support of his petition. He is self-represented. The Board of Review designated Assistant County Attorney Andy Chappell as its legal representative. The Board of Review submitted documentary evidence in support of its decision. The Appeal Board now having examined the entire record, and being fully advised, finds:

Findings of Fact

Sherwin Koch, owner of property located at 3251 Meadow Ridge Road NE, Solon, Iowa, appeals from the Johnson County Board of Review decision reassessing his property. According to the property record card, the subject property consists of a two-story, frame dwelling having 2529 square feet of above-ground living area, a 984 square foot basement with 500 square feet of finish, and an attached 20 foot by 24 foot garage. The dwelling was built in 1976 and has a grade classification of 3-10. The dwelling is situated on a 1.760 acre lot. The real estate was classified as residential on the initial assessment of January 1, 2009, and valued at \$302,480, representing \$61,080 in land value and \$241,400 in improvement value.

Koch protested to the Board of Review on the grounds that the assessment was not equitable as compared with assessments of other like property in the taxing district under Iowa Code section 441.37(1)(a); that the property is assessed for more than the value authorized by law under section 441.37(1)(b); and that there has been a downward change in value under sections 441.37(1) and 441.35(3).

He claimed that \$265,000 was the actual value and a fair assessment of the property. The Board of Review denied the protest stating that they found the assessed value to be within a reasonable range of market value.

Koch then appealed to this Board. He asserted that there had been an error in the assessment under section 441.37(1)(d), however in his narrative wrote that area houses were selling for less than their assessed values and that his appraisals show his property is over-assessed. He requests a total value of \$273,410, allocated \$58,000 to land value and \$215,410 in dwelling value. Koch presented a list of eight home sales in his neighborhood all of which sold for less than their assessment within the last year. By his calculations, the houses are selling on average for about 10% less than their assessed value.

Koch offered two appraisals to support his request for a reduction in assessment. The first was completed by Robert Kirtley, of RELS Valuation in Cedar Rapids, Iowa. It was completed for a lender in a mortgage refinancing. Kirtley described the town of Solon as a rural suburb of Iowa City. The subject property is on a hard-surfaced road, but has its own septic system and well. He used four 2008 residential sales in his sales approach to value including two ranches and two two-stories. Adjusted sale prices ranged from \$256,837 to \$286,742. He noted that there was a moderate scarcity of competing dwellings in the market and that the properties selected were most representative of the neighborhood and the most current sales. The indicated value was \$265,000 as of January 7, 2009, which is reflective of the January 1, 2009, assessment date.

The second appraisal was completed by George R. Davis of Appraisal Resources, Cedar Rapids. He describes the location as a rural area that is primarily an agricultural community where farmsteads and homes on acreage sites are common. He used three sales within roughly four to six miles of the subject property. Although there was a great range in the age of the comparable properties (1906 – 1969), Davis reports all were updated and in good condition. Adjusted sale prices ranged from \$272,000 to \$290,000. Davis reported an indicated value of \$280,000 as of September 9, 2009.

The Board of Review submitted additional evidence prepared by the assessor including a statement of issues, summary of comparable 2008 sales in Jefferson township, and a map of sale locations. Sales ratios range from 84.26% to 121.85% with a mean of 99.11% and a median of 97.45% for the selected sales area. The assessor statement correctly indicated that in mass appraisal a portion of assessments are of necessity over-valued and a portion are under-valued. However, even if the sales ratio study suggests overall conformity with the Department of Revenue variance requirements for equalization, it does not prevent an over-assessed property from being reassessed in line with its actual market value.

Koch objects to the use of sales across the interstate from his neighborhood and up to twelve miles away. He asserts that the mean and median sales ratios for sales confined within three miles of his home are 104.26% and 103.22%, respectively.

Reviewing all the evidence, we find the evidence is sufficient to prove that the Koch January 1, 2009, assessment is in excess of fair market value. Both appraisals value the subject property for less than its assessed value. Of the two, the Kirtley appraisal was completed closer to the assessment date; was the most detailed and adjusted the sales comparables based on numerous variables and amenities, however, we question whether some of his adjustments are mechanical or truly representative of market actions. We need not disregard the Kirtley appraisal because it was completed for lending purposes, as the Board of Review contends. Although the Davis appraisal estimates a September 2009

valuation date, two of the three comparables were 2008 sales which occurred prior to the assessment date. Of the two appraisals, we find that the Davis appraisal has more credibility and most accurately values the property as of the January 1, 2009, assessment date.

Conclusion of Law

The Appeal Board applied the following law.

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2009). This Board is an agency and the provisions of the Administrative Procedure Act apply to it. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determines anew all questions arising before the Board of Review related to the liability of the property to assessment or the assessed amount. § 441.37A(3)(a). The Appeal Board considers only those grounds presented to or considered by the Board of Review. § 441.37A(1)(b). But new or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption that the assessed value is correct. § 441.37A(3)(a).

In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. *Id.* "Market value" essentially is defined as the value established in an arm's-length sale of the property. § 441.21(1)(b). Sale prices of the property or comparable properties in normal transactions are also to be considered in arriving at market value. *Id.* If sales are not available, "other factors" may be considered in arriving at market value. § 441.21(2). The assessed value of the property "shall be one hundred percent of its actual value." § 441.21(1)(a).

In an appeal that alleges the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(b), there must be evidence that the assessment is excessive and the correct value of the property. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277

(Iowa 1995). We believe that both appraisals support Koch's claim that his property is over-assessed and the Davis appraisal provides the more reliable indicator of the fair market value as of January 1, 2009.

We, therefore, modify the Koch property assessment as determined by the Board of Review. The Appeal Board determines that the property assessment value as of January 1, 2009, is \$280,000, representing \$61,000 in land value and \$219,000 in dwelling value.

THE APPEAL BOARD ORDERS that the January 1, 2009, assessment as determined by the Johnson County Board of Review is modified as set forth herein..

Dated this 29 day of December 2009.

Jacqueline Rypma
Jacqueline Rypma, Presiding Officer

Karen Oberman
Karen Oberman, Board Chair

Richard Stradley
Richard Stradley, Board Member

Copies to:
Sherwin Koch
3251 Meadow Ridge Road NE
Solon, IA 52333
APPELLANT

Andy Chappell
Assistant Johnson County Attorney
417 S. Clinton
Iowa City, IA 52244
ATTORNEY FOR APPELLEE

Tom Slockett
Johnson County Auditor
913 S. Dubuque Street, Suite 101
Iowa City, IA 52240

Certificate of Service	
The undersigned certifies that the foregoing instrument was served upon all parties to the above cause & to each of the attorney(s) of record herein at their respective addresses disclosed on the pleadings on <u>12/29, 2009</u>	
By:	<input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> FAX
	<input type="checkbox"/> Hand Delivered <input type="checkbox"/> Overnight Courier
	<input type="checkbox"/> Certified Mail <input type="checkbox"/> Other
Signature	<u>[Signature]</u>